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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,136	07/09/2003	John C. Artz JR.	VIGN1470-1	2094
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EXAMINER				
HUSSAIN, TAUQIR				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/616,136

Applicant(s)

ARTZ ET AL.

Examiner

Tauqir Hussain

Art Unit

2152

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-12 and 14-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-12 and 14-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/28/2007 has been entered.

Response to Arguments

2. Applicant's arguments have been fully considered but are moot in view of the new ground(s) of rejection.

Response to Amendment

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "network topology which represents logical website", "each of the stream is a logical data source", "one or more servers, each server has hosts, data locations or a combination thereof associated with server", "each server is responsible for running a different portions of the logical website", "associating incoming data with one of the streams based on a source of the incoming data", "calculating a data loss for each stream" and "determining whether each stream has a gap based upon the calculated data loss" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

3. The drawings are objected to because there is a lack of descriptive text legends for FIG. 1 [see 37 CFR 1.83, CFR 1.84 [5(e)], MPEP § 608.02(e)].

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 12 recites, "Comprising tangible storage medium containing software instructions", examiner did not find any support for the phrase "tangible storage medium" in the specification.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 12 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Selgas et al. (Pub No.: Us 2002/0029275 A1), hereinafter "Selgas".

1. As to claim 1, defining at least a first stream and a second stream from a network topology which represents a logical website (Selgas, Fig.1, [0058, lines 1-6], where user1 and UserX are first and second streams and ISP's are logical websites), wherein each of the streams is a logical data source comprising a one or more servers (Selgas,

[0099], where pinger message to a service is logical data source and services are provide by one or more servers) wherein each server has hosts, data location or combination thereof associated with the server (Selgas, Fig.2, [0099], where each ISP connects the client to access service provider 106 which performs as host or location for ISP), and wherein each server is responsible for running a different portion of the logical website (Selgas, Fig.2, [0099], where each server/DB provides different information);

Associating incoming data with one of the streams based on a source of the incoming data (Selgas, [0100], where pinger defines the stream between user 110 and access service 106), wherein the source is one of the one or more servers or one of the hosts or data locations associated therewith (Selgas, [0101], where stream is invariably linked to user databases 204-210 to access service data base 220);

Calculating a data loss for each stream (Selgas, Fig.3, [0111, lines 1-11], where registry files are analyzed and verified if the files are installed and correct, where incorrect files will be data loss), wherein the data loss is calculated between a next event and a last event in the stream (Selgas, [0111, lines 31-37], where configuring and reconfiguring takes place in multiple session connection which means first connection is first event and second connection is next event) ; and

Determining whether each stream has a gap based upon the calculated data loss (Selgas, Fig.3, [0111], where determining is configuring and reconfiguring based on the correct or incorrect of configuration file).

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3- 5, 14-16 and 25-27 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Selgas in view of Zarefoss (Pub. No.: US 2002/0095322 A1), hereinafter "Zarefoss".

4. As to claims 3, 14, 25 Selgas discloses the invention substantially as in parent claims 1, 12 and 23. Selgas however is silent on disclosing explicitly, "stopping the processing of stream if the stream's calculated data loss is greater than a first user defined threshold".

Zarefoss however discloses, "stopping the processing of stream if the stream's calculated data loss is greater than a first user defined threshold" (Zarefoss, Fig.3b, [0015], where data processing is stopped and wait an amount of time until an uninterruptible supply of data can be guaranteed according to the user defined threshold).

Therefore, it would have been obvious to one of ordinary skilled in the art at the time the invention was made to combine the teachings of Selgas with the teachings of Zarefoss in order to provide a method of virtual reacquisition of data for the purpose of quality enhancements.

5. As to claims 4, 15, 26, Selgas and Zarefoss discloses the invention substantially as in parent claims 3, 14 and 25, including, wherein the processing resumes according to a second user defined threshold (Zarefoss, Fig.3b, [0015], process resume if streaming is under threshold value and goes to step 316).

6. As to claims 5, 16, 27, Selgas and Zarefoss discloses the invention substantially as in parent claims 1, 13 and 23, including, wherein the data loss is a time difference between the occurrence of the next event and the last event (Selgas, [0111], where configuring and reconfiguring are done at different time interval, where second connection was attempted after dropping or disconnected prematurely).

7. As to claim 6, 17, 28, Selgas and Zarefoss discloses the invention substantially as in parent claims 5, 16 and 27, including, further comprising stopping the processing of every stream if the first or second stream's calculated time difference is greater than a first time period. (Zarefoss, Fig.3b, step-314, where threshold is set and is user defined, therefore setting up an additional threshold will be an obvious variation from Zarefoss teachings).

8. Claims 7-11, 18-22 and 29-33 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Selgas and Zarefoss in views of Glaser et al. (Pub. No.: US 2006/0271989 A1), hereinafter "Glaser".

9. As to claims 7, 18 and 29, Selgas and Zarefoss discloses the invention substantially as in parent claims 6, 17 and 28. Selgas and Zarefoss however are silent

on, further comprising storing any data received while processing is stopped. Glaser however, discloses, further comprising storing any data received while processing is stopped (Glaser, [0057, lines 10-15]).

Therefore, it would have been obvious to one ordinary skilled in the art at the time the invention was made to combine the teachings of Selgas and Zarefoss with the teachings of Glaser to provide a system to store the data for future download to continue after retransmission of data starts at different time.

10. As to claims 8, 19 and 30, Selgas, Zarefoss and Glaser discloses the invention substantially as in parent claims 7, 18 and 29, including, comprising sending a notification (Glaser, [0057, lines 10-15, where sent signal is a notification to stop the transmission]).

11. As to claims 9, 20 and 31 Selgas, Zarefoss and Glaser discloses the invention substantially as in parent claims 7, 18 and 29, including, further comprising resuming processing of the first or second stream upon reception of more data associated with the first or second stream (Glaser, [0076, lines 21-35]).

12. As to claims 10-11, 21-22, 32-33 are rejected for the same rationale as applied to parent claims 7, 18 and 29 above.

Examiner's Note: Examiner has cited particular columns and line numbers in the references, as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in its entirety as potentially teaching of all or part of the claimed invention, as well as the context.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAUQIR HUSSAIN whose telephone number is (571)270-1247. The examiner can normally be reached on 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571 272 3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/T. H./
Examiner, Art Unit 2152

/Bunjob Jaroenchonwanit/
Supervisory Patent Examiner, Art Unit 2152